

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

LISA WILSON,
572 W US Highway 22 and 3.
Maineville, OH 45039

DANNY WILSON
572 W US Highway 22 and 3.
Maineville, OH 45039

KATHRYN WUEST
1193 Stableview Circle
Maineville, OH 45039

KYLE RILEY
188 Regency Square
Maineville OH 45039

AMANDA JOHNSON
5880 Eagle Creek Ct
Maineville, OH 45039

Plaintiffs,

v.

DAVID WALLACE,
Hamilton Township
7780 S State Route 48
Maineville, Ohio, OH 45039

Defendants

Case No. **1:17-cv-582**

Judge

COMPLAINT

AND

JURY DEMAND

INTRODUCTION

1. Plaintiffs brings this action for a declaratory judgment, injunctive relief, and violation of 42 U.S.C. §1983.

2. This case arises out of the unconstitutional actions of an elected official in “banning” his constituents from his Facebook Page. Plaintiffs allege that this violated their right to free speech under the United States Constitution.
3. Defendant acted under color of state law in maintaining his “David Wallace, Jr. - Hamilton Township Trustee” Facebook Page and banning Plaintiffs from that page; Defendant's actions, violated Plaintiffs’ right of free speech under the First Amendment to the United States Constitution

PARTIES

4. Plaintiff Lisa Wilson is a citizen and registered voter in Hamilton Township, Warren County, Ohio. Lisa Wilson has a residence at 572 W US Highway 22 and 3, Maineville, OH 45039
5. Plaintiff Danny Wilson is a citizen and registered voter in Hamilton Township, Warren County, Ohio. Danny Wilson is married to Lisa Wilson. Danny Wilson has a residence at 572 W US Highway 22 and 3.
6. Plaintiff Kathryn Wuest is a citizen and registered voter in Hamilton Township, Warren County, Ohio. Wuest has a residence at 1193 Stableview Circle, Maineville, OH 45039.
7. Plaintiff Kyle Riley is a citizen and registered voter in Hamilton Township, Warren County, Ohio. Riley has a residence at 188 Regency Square, Maineville OH 45039.
8. Plaintiff Amanda Johnson is a citizen and registered voter in Hamilton Township, Warren County, Ohio. Johnson is the daughter of Lisa Wilson. Johnson has a residence at 5880 Eagle Creek Ct, Maineville, OH 45039.
9. Defendant David Wallace (“Wallace”) is a Hamilton Township Trustee.
 - a. Wallace has a principal place of business at 7780 S State Route 48, Maineville, Ohio, OH 45039.
 - b. Wallace is sued in his official capacity for declaratory and injunctive relief.

- c. Wallace is sued in his individual capacity for damages.

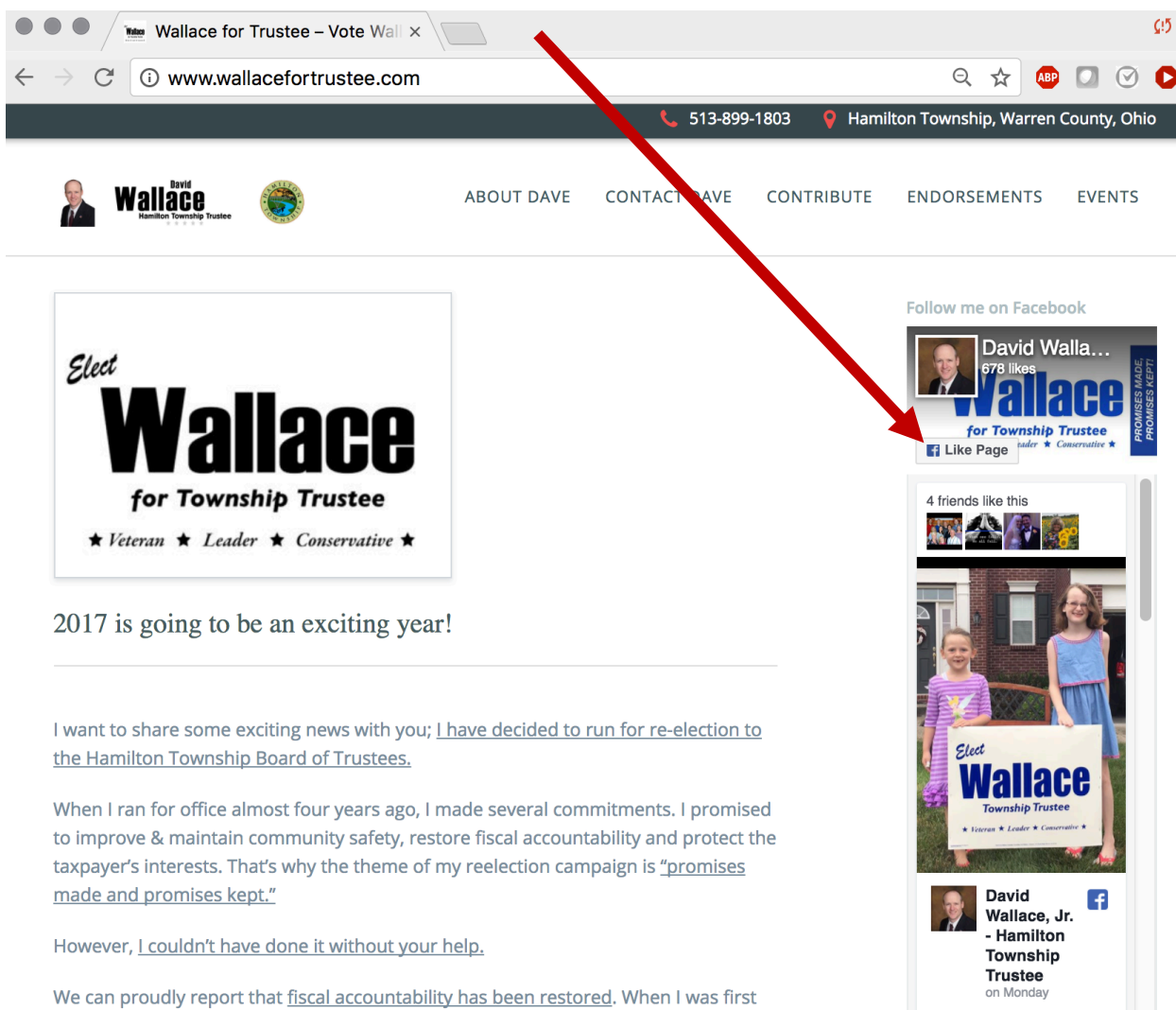
JURISDICTION AND VENUE

- 10. This case arises, in part, under the Constitution and laws of the United States, specifically the First Amendment to the Constitution and 42 U.S.C. §1983. Accordingly, this Court has jurisdiction in this matter pursuant to 28 U.S.C. §§ 1331 and 1343.
- 11. The injunctive relief sought in this matter is authorized by 28 U.S.C. §§ 2201 and 2202 and Federal Rules of Civil Procedure 57 and 65.
- 12. This Court is an appropriate venue for this cause of action pursuant to 28 U.S.C. § 1391. The defendant is a resident of the State in which this district is located and a substantial part of the events or omissions giving rise to the claim occurred in this district.

FACTS


- 13. Plaintiffs are residents of Hamilton Township.
- 14. Plaintiffs are active in local politics and have a particular interest in the actions of the Hamilton Township Trustees.
- 15. Wallace is Hamilton Township Trustee.
 - a. Hamilton Township is a Home Rule Township with a full-time Police and Fire Chief, and a legal counsel separate from the County Prosecutor.
 - b. The Hamilton Township Trustees are the elected officials charged with administering Hamilton Township. The Township Trustees are in charge of carrying out the legislative authority granted by the Ohio Revised Code, Sections 505 through 505.94. The Township Trustees' authority includes the provision of services, such as fire, police, and parks as well as the establishment of zoning rules and regulations and other legislative authority consistent with the Ohio Revised Code.

16. Wallace's duties include communicating with his constituents. Wallace's duties do not specifically require him to maintain a website for that purpose.
17. Wallace maintains a Facebook Page titled "David Wallace, Jr. - Hamilton Township Trustee" over which he exerts control (the "Facebook Page").
18. Facebook is a popular social media website. Elected officials like Wallace create "pages" through which they may interact with the interested public.
 - a. Facebook states, "people are turning to Facebook to find, follow and connect with candidates and elected officials. And governments are using Facebook to reach citizens directly and personally. There is a two-way conversation happening where people share what they care about, and officials get honest, real-time feedback."
<https://politics.fb.com/>
 - b. Facebook allows information to be shared on its sites via "posts." People who read the post may respond with comments or questions. The replies are visible to anyone who views the original post, unless removed by a person with control over the original post.
19. On information and belief, the Facebook Page is one of Wallace's primary means of communicating with constituents about local issues. Wallace encourages constituents to contact him via Facebook and, in particular, in the comments sections of his posts on the Facebook Page.
20. Wallace maintains an email account (independent from any email account provided by the township) that he uses to communicate with constituents about public matters. He also has a separate webpage for his campaign: <http://www.wallacefortrustee.com/>. As shown below, this page incorporates the "feed" from his Facebook Page:



21. On information and belief, Wallace has administrative control over the Facebook Page, meaning that he has the ability to post to the page and edit its contents. He also has the ability to remove comments and prevent people from making further comments on the posts on this page (a/k/a “blocking” or “banning”).
22. Wallace commonly uses the Facebook Page to address issues of concern to Hamilton Township residents.


- a. Wallace commonly shares information about road closures and construction projects in Hamilton Township. For example, on May 16, 2017, June 15, 2017, June 30, 2017, and July 25, 2017, he posted the following:



David Wallace, Jr. - Hamilton Township Trustee shared
Hamilton Township, Warren County, Ohio's photo.

May 16 · 🌐

...



OHIO DEPARTMENT OF TRANSPORTATION

JOHN KASICH, OHIO GOVERNOR JERRY WRAY, ODOT DIRECTOR

Ohio Department of Transportation • Traffic Advisory

DISTRICT 8 • TAMMY K. CAMPBELL, P.E., DISTRICT DEPUTY DIRECTOR
505 S. State Route 741 • Lebanon, Ohio 45036
<http://www.transportation.ohio.gov/dist8>

U.S. 22/3 at SR 48 lane closures scheduled

Warren County (Tuesday, May 16, 2017) – Beginning at 8 a.m. Wednesday, May 17, utility work requires various short-term lane closures on all approaches to the U.S. 22/3 at State Route 48 intersection. The old signal heads will be removed and the rebuilt traffic signal will be turned on.

During this time, there will be various short-term lane closures on all approaches to the intersection and traffic will be maintained.

Arrow boards and/or signs will be in place to alert motorists of the upcoming work zone.

To help ensure the safety of the construction workers as well as the traveling public, motorists should remain alert, reduce their speed and watch for stopped traffic while passing through the work zone.

For ongoing traffic, construction and weather-related information, please check www.OHGO.com.

###

The Ohio Department of Transportation maintains the state's largest man-made asset--the transportation system. ODOT's mission is to provide the safe and easy movement of people and goods from place to place. As a \$2.8 billion per year enterprise, ODOT invests the bulk of its resources in system preservation through maintenance, construction and snow and ice operations.

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 11, 2015, and executed by FHWA and ODOT.

For more information contact:
 Brian Cunningham, Communications manager, at (513) 933-6517
 Liz Lyons, Public Information Specialist, at (513) 933-6534
 or email Do8.PIO@dot.ohio.gov



David Wallace, Jr. - Hamilton Township Trustee

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June 30 · 🌐

HAMILTON TOWNSHIP PRESS RELEASE 6/26/2017

Two Week Closure on Dallasburg Road for Culvert Replacement

Dallasburg Road will be closed between the addresses of 9827 Dallasburg Road to the intersection of Cozaddale-Murdoch for two (2) weeks starting Monday, July 10, 2017; weather permitting. The closure is for a culvert replacement project that is located between Cozaddale-Murdoch Road and Swigert Road. The project will be open for local and emergency traffic only.

For more information, contact Public Works Director Kenny Hickey at (513) 683-5360



David Wallace, Jr. - Hamilton Township Trustee

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June 15 · 🌐

PRESS RELEASE (Warren County Engineers Office)

Overbrook Avenue in Hamilton Township Now Open

Lebanon, Ohio – Hamilton Township – As of Wednesday, June 14, 2017, the bridge repair project (bridge #2080-0.02) on Overbrook Avenue (TR2080) has been completed. Overbrook Avenue is now open to traffic.

Thank you to the traveling public for their patience.



David Wallace, Jr. - Hamilton Township Trustee

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July 25 at 2:21pm · 🌐

**WARREN COUNTY ENGINEERS OFFICE
PRESS RELEASE**

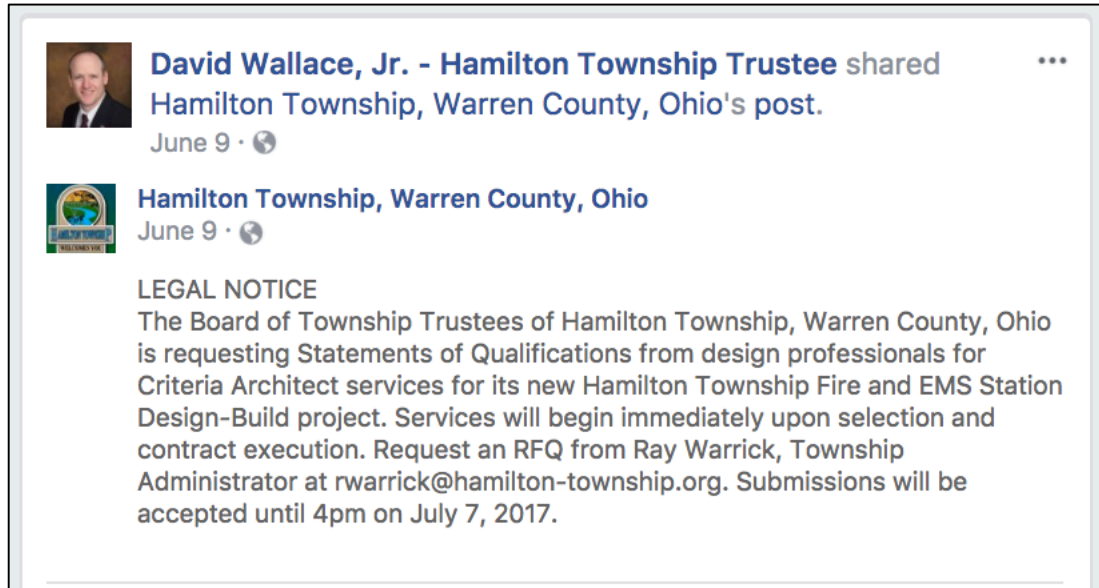
Mason-Morrow-Millgrove Road Closed East of SR48 in Union Township for Six Weeks

Lebanon, Ohio – Union Township – Mason-Morrow-Millgrove Road, east of the SR48 intersection, will close beginning Today, Tuesday, July 25, 2017, and remain closed for a duration of approximately six (6) weeks, weather permitting. The closure is for a safety improvements project that will be underway immediately.


Detour signage will be installed to reroute traffic around the closure. Access to Barrett's Marathon Auto Service and Little Miami Veterinary Clinic will be available by way of John C. Quinn Boulevard.

The Warren County Engineer's Office encourages drivers to stay alert and take your time when out on the road. We consider it a privilege to serve Warren County, to maintain a safe county road system and to help you get around our beautiful county


- b. Wallace has posted “legal notices” on the Facebook Page. For example, on June 9, 2017 he posted the following:



- c. Wallace commonly posts important public information on the Facebook Page. For example, he commonly posts police and fire statistics, as he did on June 3, 2017, June 27, 2017, and July 22, 2017:

 **David Wallace, Jr. - Hamilton Township Trustee** added 4 new photos. June 27 · 🌐

Below are our Police and Fire stats from May that were briefed at our last Trustee meeting. I would like thank our officers and firefighters for their service and dedication to our community.



	Feb-17	Mar-17	Apr-17	May-17	2017 Total	2016 YTD
Engine runs	46	68	71	49	284	292
EMS	123	122	140	130	656	625
MVA with Injury	7	8	16	7		
Structure fires	3	3	2	4		
General Service Calls	22	28	22	12		
PR events	6	7	6	7		

Medical Transports

	Calls	Transports	
May	130	88	67
2017 YTD	656	435	66
2016 YTD	625	407	65

**HAMILTON TOWNSHIP
POLICE DEPARTMENT**

	February	March	April	May
Alarm Drops	41	50	53	89
Auto Accidents	40	39	54	47
OVI (DUI)	7	4	8	5
Traffic Stops	310	261	144	166
Incidents	1628	1543	1701	1906

Criminal Investigations Division

Offense Type	2017 Total	May 2017
Theft	16	4
Burglary	7	0
Assault	1	0
Stolen Vehicle	1	0
Aggravated Assault	3	0
Break-in	0	0
Other	9	0
Total	48	4

36 of the 48 are solved

75%



David Wallace, Jr. - Hamilton Township Trustee added 3 new photos.

July 22 · 🌐

Below are our Police and Fire stats from June that were briefed at our last Trustee meeting. I would like thank our officers and firefighters for their service and dedication to our community.

POLICE DEPARTMENT					TOWNSHIP OHIO				
Calls for Service									
	March	April	May	June					
Alarm Drops	50	53	89	65					
Auto Accidents	39	54	47	30					
OVI (DUI)	4	9	5	2					
Traffic Stops	261	144	166	227					

Type	Total 2017	June Total	Open Investigations	Closed
Theft	19	3	3	
Aggravated Assault	7	0	0	
Simple Assault	1	0	0	
Stalking	1	0	0	
Offense	3	0	0	
Break-In	2	2	2	
Other	13	5	0	
Total	57	10	5	

MINIMAL INVESTIGATIONS T. QUILLAN SHORT					
--	--	--	--	--	--

HAMILTON TOWNSHIP FIRE RESCUE					
	Mar-17	Apr-17	May-17	Jun-17	2017 Total
Unsubstantiated	68	71	49	40	324
Substantiated	122	140	130	128	784
With Injury	8	16	7	7	
Structure Fires	3	2	4	0	
Service Calls	28	22	12	14	
Other	7	6	7	5	



David Wallace, Jr. - Hamilton Township Trustee added 2 new photos.

June 3 · 🌐

Below are our Police and Fire stats from April that were briefed at our last Trustee meeting. I would like thank our officers and firefighters for their service and dedication to our community.

POLICE DEPARTMENT **Calls for Service**




	January 2017	February	March	April
Alarm Drops	38	41	50	53
Auto Accidents	64	40	39	54
OVI (DUI)	5	7	4	8
Traffic Stops	231	310	261	144



	Jan-17	Feb-17	Mar-17	Apr-17	2017 Total	2016 YTD
Engine runs	50	46	68	72	236	233
EMS	141	123	122	140	526	480
MVA with Injury	13	7	8	16		
Structure fires	1	3	3	2		
General Service Calls	14	22	28	22		

- d. Wallace posts public information, such as meeting agendas, on the Facebook Page. For example, he did this on March 18, 2017, May 1, 2017 and April 17, 2017:

**David Wallace, Jr. - Hamilton Township Trustee**March 18 · 🌐...

Hamilton Township Trustees Special Meeting
March 25, 2017
Proposed Agenda
9:00 am
Open the Meeting at the Township Building
Adopt Proposed Agenda

Trustees' Business at Hand
*** Executive Session to consider the appointment of Public Officials.**
Zoning Commission and Board of Zoning Appeals Candidates
9:00 – Don Biedermann
9:30 – Dan Phipps
10:00 – Richard Browning
10:30 – Michael Blomer
11:00 – Harold Eberenz
Adjournment
*** Only the items listed here may be addressed during a Special Meeting of a Board of Trustees. No other business can be conducted.**



David Wallace, Jr. - Hamilton Township Trustee

May 1 · 🌐

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Hamilton Township Trustee Meeting

May 3, 2017

Proposed Agenda

6:00 p.m.

Opening Prayer, Pastor TBD

Pledge to the Flag

Adopt Proposed Agenda

Previous Meeting Minutes

Bills before the Board

Township Administrative Matters

Human Resources

* (none)

* Cemeteries(one)

Public Comments

Township Current Business

* Zoning Text Changes Resolutions 17-0503 & 17-0503A

* Door-To-Door Solicitation Regulation Resolution 17-0503B

* Revised Emergency Action Plan

* Peters Cartridge CRA Proposal Motion

* 2016 Financial Statements Motion

Work Session Items

* Fire Department Lexipol Program

Jim Hunter, Fiscal Officer

* Large PO, Police Sgt. Assessment

Trustees' Business at Hand

* Executive Session (To consider compensation and employment of public employees

and to discuss imminent court action)

Adjournment

* The agenda is to give you an idea of the various discussions before the Board and the time and order of topics reference is subject to change as needed in order to have a more productive and timely meeting.

Note: Any items requested before the board must be turned in no later than 12:00 p.m. on Monday before the stated meeting on Wednesday, otherwise it will be on the following week's agenda.



David Wallace, Jr. - Hamilton Township Trustee

April 17 · 🌐

...

Hamilton Township Trustee Meeting

April 19, 2017

Proposed Agenda

6:00 p.m.

Opening Prayer, Pastor Jeff Raker, The Park United Methodist Church

Pledge to the Flag

Adopt Proposed Agenda

Previous Meeting Minutes

Bills before the Board

Township Administrative Matters

Human Resources

* misc

* Cemeteries(none)

Swearing in of Firefighter Jacob Colvin

Public Comments

Township Current Business

* Monthly Financial Report

* Monthly Police, Fire and Public Works Reports

* Marijuana Resolution

* Annexation Response Resolution

* Electric Aggregation Renewal Resolution

Work Session Items

* none

Jim Hunter, Fiscal Officer

* Large PO, HVAC Controls

Trustees' Business at Hand

* Misc

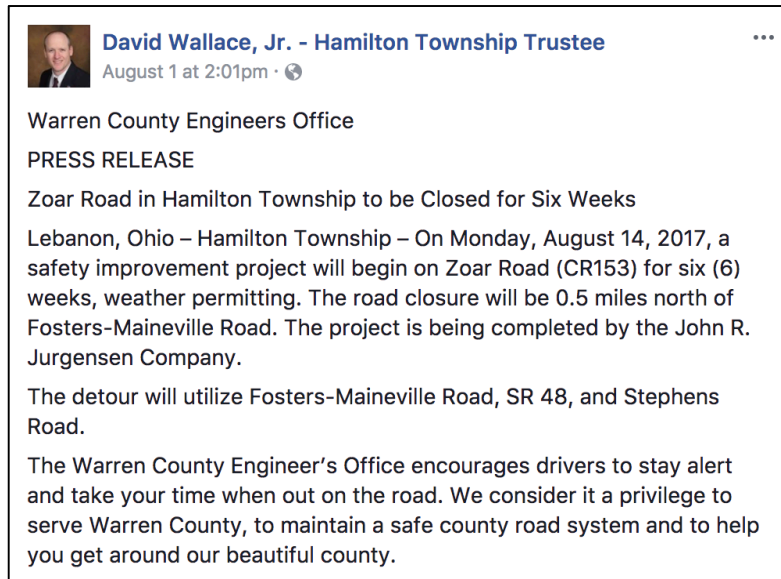
Adjournment

* The agenda is to give you an idea of the various discussions before the Board and the time and order of topics reference is subject to change as needed in order to have a more productive and timely meeting.


Note: Any items requested before the board must be turned in no later than 12:00 p.m. on Monday before the stated meeting on Wednesday, otherwise it will be on the following week's agenda.


23. A number of posts on the Facebook Page by Wallace contain comments, suggestions, and communications with constituents about public issues.


a. On August 1, 2017, Wallace posted about a construction project on Zoar Road:




In response to this post, one constituent commented on the Facebook Page about the timing of the project. Wallace agreed to contact the County Engineer on behalf of the constituent.


**Lynn Ratliff** David, can the trustees draft a letter at the displeasure about this being right at school year starting and within a mile or so of a 650 kid school?!?! Plus Maineville the other direction. Even if they had waited till September, at least we would have already been back in the swing of things.
Like · Reply · August 1 at 6:42pm


**David Wallace** Lynn- I'll call the Engineers Office tomorrow. You may also contact the WCEO at (513) 695-3301. I agree that this is horrible timing. I'll let you know what I find out.
Like · Reply · August 1 at 9:11pm


**David Wallace** I checked with the Engineers Office and they too agree the timing isn't best, but money for the project didn't become available until 1JUL. After it went to bid, here we are in AUG. I understand they notified the school and they will verify the school is tracking. If you have anymore questions, I recommend contacting WCEO. Thanks, Dave
Like · Reply · 1 · August 2 at 1:55pm

**Lynn Ratliff** David Wallace thank you for your follow up and the information dispersion. Appreciate it!!
Like · Reply · 1 · August 2 at 2:08pm


In response to the post, another constituent commented on the signage for the project. Wallace agreed to reach out “to the county” to assure proper signage.

**Jim Laudenslager** Saw the sign yesterday at Stephen Rd, wonder what the people who live in between Foster-Maineville and Stephens are suppose to do. There is no sign at Mounts Rd. Timing is right with the start of school.
Like · Reply · 1 · August 1 at 3:51pm

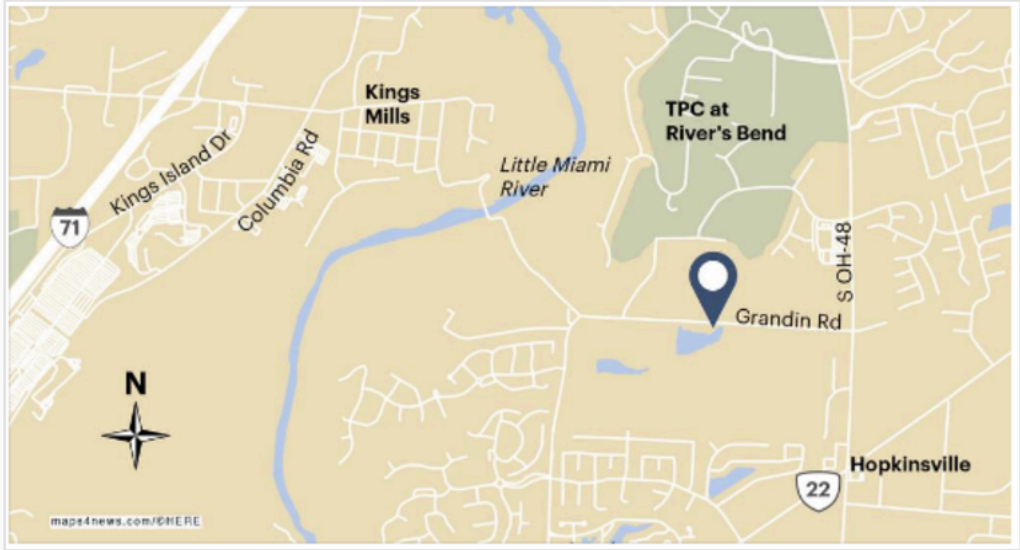
**David Wallace** Jim- Our road supervisor will reach out to the county and make sure they put the proper signage up to include Mounts Rd. I agree, the timing with school starting couldn't be worse.
Like · Reply · August 1 at 4:02pm

**Jim Laudenslager** Thanks David
Like · Reply · August 1 at 4:03pm


b. On March 17, 2017, Wallace posted about a development project:



David Wallace, Jr. - Hamilton Township Trustee shared
 Hamilton Township, Warren County, Ohio's photo.
 March 17 · 🌐




Hamilton Township, Warren County, Ohio
 March 17 · 🌐

 Like Page


More than 100-acre industrial park planned near I-71
 March 17, 2017, Business Courier, Tom Demeropolis

A more than 100-acre industrial park is scheduled to start construction in 2017. Little Miami Industrial Park, a 104-acre development in Warren County's Hamilton Township, is expected to start later this year. The development is designed to fit about 13 buildings, ranging from 45,000 square feet to 200,000 square feet.

In response to this post, one constituent complained about possible tax issues; Wallace responded to this complaint.




Susan Crum Morales Unfortunately, the tax revenue will go toward Kings SD. I am unclear why the township keeps voting down commercial development in the LMSD. Maybe you can clear that up as to why?
 Like · Reply · March 18 at 3:11pm



David Wallace Susan- The industrial park is in Little Miami so this is great news for the schools. I am not aware of voting down any commercial development. I hope this helps. Thanks, Dave
 Like · Reply · 🍷 1 · March 18 at 10:09pm · Edited

- c. On June 9, 2017 Wallace posted information about a road project. He responded to a constituent concern about when another project would be completed:








David Wallace, Jr. - Hamilton Township Trustee
June 9 · 🌐

PRESS RELEASE (Warren County Engineer's Office)


Butterworth Road in Hamilton Township Now Open





Hamilton Township – As of today, Friday, June 9, 2017, the bridge replacement project (bridge #156-0.68) on Butterworth Road (CR156) has been completed. Butterworth Road is now open to traffic.


 Like
  Comment
  Share
 

 17
 Top Comments ▾

1 share




Write a comment...
 








Kirtin Call Any idea when Western Row from Socialville-Foster to Columbia will open? They said it would be today.

Like · Reply · June 9 at 7:11pm




David Wallace, Jr. - Hamilton Township Trustee Since this is outside the TWP, I don't always receive updates. I have not received anything from the Engineers Office and I didn't see anything on their website. I have a few calls in to them and will let know when I get an update.

Like · Reply ·  1 · June 9 at 7:37pm · Edited





David Wallace, Jr. - Hamilton Township Trustee They're hoping for 16JUN.

Like · Reply · June 10 at 1:01pm · Edited





Ryan Oder "They're"

Like · Reply ·  1 · June 10 at 12:50pm




David Wallace, Jr. - Hamilton Township Trustee Ryan Oder Corrected.


Like · Reply ·  1 · June 10 at 1:02pm



Kirtin Call David Wallace, Jr. - Hamilton Township Trustee thanks for going out of your way to find this out. It certainly does affect a lot of us Hamilton Township residents.

Like · Reply ·  1 · June 10 at 1:50pm

- d. On May 9, 2017, Wallace posted information about a prior 'Trustees' meeting. One constituent complained about tornado sirens; Wallace responded to this concern.







David Wallace, Jr. - Hamilton Township Trustee


May 9 · 🌐

A few highlights from our last meeting: Prior to the start, we (trustees) had our post audit conference with the independent auditor. For the third year in a row, I am proud to report we had zero issues. I want to thank our administrator, department heads and employees for being good stewards of your tax dollars.


I would like to thank Pastor Randy Ballard from Kings Point Church of God for taking time out of his busy schedule and stopping by our meeting to open it with a prayer. At the request of Little Miami Schools, we (trustees) made a motion to approve a resolution initiating a change to our zoning code to allow the text of our electronic signs to display an image or symbol from 60 minutes to 15 seconds. This puts us more in line with neighboring communities. We (trustees) also approved hiring a full-time firefighter/EMT.

As always, let me know if you have any questions or concerns.





 Like
  Comment
  Share
 


 10
 Top Comments ▾

1 share





Write a comment...




Bonnie Rich Me. Wallace when is the siren going to be replaced on the firehouse here in Maineville? None of the residents here in the village have warning when bad weather is approaching. We can't hear any sirens around us. Are we being punished because "someone "... [See More](#)


Like · **Reply** ·  1 · May 9 at 5:42pm




David Wallace The village of Maineville was consulted prior to its removal and we were assured that the village has coverage. If you are still concerned about the current coverage, please contact the village of Maineville. Thanks.

Like · **Reply** ·  1 · May 9 at 5:51pm


24. On April 25, 2017, Wallace posted information about a planned bridge reconstruction project in the community and invited comments on various proposals from the State. Over twenty constituents posted their opinions. Wallace also engaged in a dialogue about different options, including:




Lisa Laudenslager Is the by the old Powder Factory? What benefits will we get from this?
Like · Reply · April 25 at 7:32pm




David Wallace Yes. The current bridge will need to be replaced and tonight we were presented with a few options.
Like · Reply · April 25 at 7:39pm




Lisa Laudenslager I meant what financial benefits will we get
Like · Reply · April 25 at 7:44pm




David Wallace I believe it will improve our TWP by allowing easy access to the expressways. The township is crippled by our current bridges as well as the old horse and buggy trail by the powder factory. I believe the Engineers Office will be seeking grants for this in the near future.
Like · Reply · 2 · April 25 at 7:49pm




David Haley When the powder factory was in operation all the tax dollars went to kings so let them pay for it
Like · Reply · April 25 at 7:29pm




David Wallace This is a Warren County Engineer project, not a township project. Possible funding could come from Federal Local Bridge Replacement Fund, Bridge Credit Funds, Ohio Public Works Commission Funds.
Like · Reply · 1 · April 25 at 7:59pm



Write a reply...



David Wallace Be sure to let the Warren County Engineers Office know your choice. <http://www.wceo.us/Information/commentform.pdf>
Like · Reply · April 26 at 6:34pm



David Wallace Be sure to visit the WCEO website and complete a comment form. You have until 26MAY to turn it in to the Engineers Office.

25. The Facebook Page is maintained by Wallace independent of the Township's official website and Facebook page. On information and belief, the Facebook Page will not revert to the County when Wallace leaves office, and he will retain control of that page.

26. The overwhelming majority of posts on the Facebook Page concern matters of public concern. Occasionally, Wallace will post a photograph of a personal nature. This is in contrast to Wallace's twitter page, @davewallace5, which contains a significant amount of sports related posts and only the occasional posts about local public issues.
27. In the "About" section of the Facebook Page, the page is categorized as that of a "Politician." The owner of the page includes Wallace's official title: "David Wallace, Jr. - Hamilton Township Trustee." The Facebook Page also contains links to Wallace's campaign website.
28. Wallace uses the Facebook Page for official communications.
 - a. Wallace uses the Facebook Page to solicit information from the public about matters of concern to the Trustees and the community.
 - b. Many of Wallace's posts document meetings of the Hamilton Township Trustees. Some memorialize individuals who have received honors from the Board.
 - c. Wallace uses the comments section of his posts to the Facebook Page to engage with his constituents.
29. Danny Wilson and Johnson were banned from commenting on the Facebook Page in Spring 2015.
 - a. Danny Wilson and Johnson had commented on a post by Wallace regarding the budget and the proposed privatization of the Fire Department.
 - b. Danny Wilson's and Johnson's questions and comments were deleted by Wallace. Later, they were blocked from the page and unable to post any further comments or questions.
30. Lisa Wilson was banned from commenting on the Facebook Page in Spring 2015.
 - a. Approximately two weeks after Danny Wilson and Johnson were banned, Lisa Wilson also had commented on a post by Wallace regarding the budget and the proposed privatization of the Fire Department.

- b. Lisa Wilson's comments were deleted by Wallace. Later, she was blocked from the page and unable to post any further comments or questions.
- c. On July 15, 2015, the issue of the Facebook Page was discussed during the public comments section of a Trustees meeting.
 - i. Lisa Wilson was permitted to address the trustees during the public comment portion of the meeting. She observed that the Facebook Page looked like an "official" government page:

[A]bout the Facebook Page. . . . *It looks very official. It looks, there's a, it looks like a government, official government page. There's a picture of the township building, there's a banner that says Township Trustee, Mr. Wallace's name. It's a like public page, as opposed to a private page where people would you know, or ask to join or whatever. And it has, it seems to have an official governmental function, which means it talks about road closings or events in the community or you know things like that, we bought salt. So it's informing people of things. (Emphasis supplied.)*

- ii. Lisa Wilson also observed that the Facebook Page was the primary source of information about the community for many citizens. She said:

The big problem that I have with this it's the only game in town. There's not, most of the stuff is not on the website, the township official website. So *there's no other place for people to go to get that kind of information.* You might have to go to the, you know, the auditor's website, or the engineer's website or, or something else to find specific things, but it's not all going to be in one place, so people going there, I think, are getting a misrepresentation or skewed view of that. (Emphasis supplied.)

- iii. Lisa Wilson observed that comments critical of Wallace or the government were deleted and that those posters were prohibited from communicating with government officials or raising their concerns. Lisa Wilson also expressed a concern that those who did not "agree" with Wallace did not have the same access to their elected officials as those who shared the same political views. She said:

People who ask questions, or commented about, after the budget was approved, those comments that weren't in line with Mr. Wallace's have been deleted and the people who wrote them are not allowed to comment again, that, that has been taken away, I have a huge problem with that because now

I feel like those people, myself included, don't have the same access to all three trustees as somebody who has the same view as that trustee. (Emphasis supplied.)

- iv. Wallace responded. He acknowledged that he maintained the Facebook Page as a “service” to the community and that he uses the page to send out information about government activities because it is part of his “job” as a trustee. He also suggested that the Facebook Page was official, indicating that the Facebook Page he speaks as “Dave Wallace, Hamilton Township Trustee.” He said:

As far as the Facebook Page goes, uh, that was something that I decided when I ran, uh, trying to put information out. I think the more people, if more people were empowered to what was going on, knowledge is power, and I think we got ourselves into some problems when we had a lot of things that were going on that people didn't know about. Uh, we don't get a lot of media coverage out here, so it takes phenomenal events for the average person to stay with it. It's a service that I provide. *I speak for myself. It's Dave Wallace, Hamilton Township Trustee, this is who I am and that's who I speak for.* You can always get a hold of me either through email or phone number, so if you do need to get a hold of me, that's how you can get ahold of me. But again, it's my website and you guys are more than welcome to continue reading it and I'll keep you guys up to date cause that's the job I feel I need to do. (Emphasis supplied.)

31. Wuest was banned from commenting on the Facebook Page in December, 2016.

- a. On or about December 21, 2016, Wuest attended the final Hamilton Township's Trustee Meeting for 2016. She subsequently posted a question to the Facebook Page about the possible sale of one of the Township's local parks, Mounts Park. Wallace deleted the question and blocked Wuest from making any comments on his page.
- b. Wuest raised the issue of being blocked on the Facebook Page in public comments at the January 4, 2017 meeting of the Board of Trustees. Minutes of the meeting are available at: http://www.hamilton-township.org/media/boe/2017_0104_minutes-90.pdf. The minutes of this meeting state:

Katy Wuest, Stableview Circle, stated that after the last meeting that she had asked Mr. Wallace a question on his facebook page and the question was deleted and she was blocked from commenting on his page. Will the special meeting to get the publics input about should be done about Mounts Park be re-scheduled?

David Wallace stated that a meeting will be re-scheduled once there is more information received from the EPA.

Katy Wuest asked if it would be a special meeting or a hearing?

David Wallace said it would be a work session.

32. Riley was banned from commenting on the Facebook Page in the Fall of 2015.
- a. Riley had commented on a post by Wallace regarding fire and EMS safety services in the township. Riley directed a couple of questions to Wallace.
 - b. Riley's questions and comments were deleted by Wallace. After roughly 24 to 36 hours, Riley was blocked from the page and unable to post any further comments or questions.
33. On information and belief, Wallace has banned Plaintiffs from his Facebook Page because he was offended by their criticism of his handling of public issues.
34. When an individual is banned from a Facebook Page, they can read and share content posted on that page, but cannot comment on or send private messages to that page.
35. Plaintiffs did not post any offensive, obscene, or threatening comments on the Facebook Page.
- a. Plaintiffs' comments were consistent with the goals and policies of Facebook to "permit open and critical discussion of people who are featured in the news or have a large public audience based on their profession or chosen activities." <https://www.facebook.com/communitystandards#attacks-on-public-figures>. Plaintiffs comments did not constitute credible threats to public figures or as hate speech directed at public figures.
 - b. Plaintiffs' comments were consistent with the goals and policies of Facebook that allow people to "speak freely on matters and people of public interest."

<https://www.facebook.com/communitystandards#bullying-and-harassment>. Plaintiffs' comments did not purposefully target any person with the intention of degrading or shaming them.

- c. All of the comments by Plaintiffs were in compliance with the Facebook Terms of Service.

<https://www.facebook.com/legal/terms>.

36. As of the date of this Complaint, Plaintiffs remain banned from the Facebook Page. As a result, they remain unable to communicate with their elected officials through the Facebook Page and remain unable to participate in what is essentially a public form. Wallace's conduct is on-going and Plaintiffs face continuing harm and the threat of future harm.

**COUNT I
(DECLARATORY JUDGMENT – VIOLATION OF FREE SPEECH PROVISIONS
OF UNITED STATES CONSTITUTION)**

37. Plaintiffs repeat and incorporate all of the allegations of this Complaint, as if fully set forth herein.
38. The First Amendment to the United States Constitution, made applicable to the State of Ohio by the Fourteenth Amendment, guarantees the free speech rights of the Plaintiffs.
39. Wallace is acting under color of state law or undertakes state action in maintaining the Facebook Page.
40. Wallace is acting under color of state law or undertakes state action in banning the Plaintiffs from the Facebook Page.
41. There is a sufficiently close nexus between Wallace's Facebook Page and Hamilton Township so that Wallace's actions in regards to the Facebook Page may be fairly treated as that of Hamilton Township itself. The Facebook Page is inextricably linked to the fact of Wallace's public office.
42. Wallace, the Facebook Page, and Hamilton Township are entwined so that it is difficult for constituents to delineate between them.

- a. Wallace's public office provides the impetus for almost every post on the Facebook Page; those posts and comments arise out of public, not personal, circumstances.
 - b. Wallace maintains the Facebook Page for the purpose of providing information to the public and communicating with his constituents.
 - c. Since creating the Facebook Page, Wallace has used it as a tool of governance. The page is one of the means by which Wallace communicates with constituents, receives input on issues before the Board of Trustees, and holds "back and forth" dialogues with constituents. Wallace frequently uses the page to keep his constituents abreast important events in local government.
43. Wallace created a forum for speech by creating the Facebook Page.
- a. The Facebook Page is a digital space for the exchange of ideas and information in which Wallace's constituents may express opinions or post information.
 - b. Wallace has allowed discussion of issues on the page, has affirmatively solicited comments from his constituents, and has responded to constituent concerns in his official capacity.
- As a result, the Facebook Page a place or channel of communication for use by the public.
44. Wallace has made efforts to swathe the Facebook Page in the trappings of his office. Among other things, the title of the page includes Defendant's title.
45. The specific acts of banning Plaintiffs from the Facebook Page arose out of public, not personal, circumstances. Wallace banned Plaintiffs from the Facebook Page due to their criticism of his public actions. Wallace, thus, acted out of "censorial motivation" to suppress criticism of a township trustee related to the conduct of his official duties.
46. The Plaintiffs' speech and comments on the Facebook Page concerns speech protected by the First Amendment. Their criticism of official conduct lies at the very heart of the First Amendment.

47. On information and belief, Wallace has not adopted any policy with respect to the Facebook Page beyond the terms of service maintained by Facebook. Wallace did not ban Plaintiffs pursuant to any neutral policy or practice that he has applied in an evenhanded manner.
48. By banning the Plaintiffs from the Facebook Page, Wallace sought to suppress critical commentary regarding elected officials.
49. Wallace violated Plaintiffs' First Amendment by engaging in viewpoint discrimination and banning Plaintiffs from a digital forum for criticizing elected officials.
50. Plaintiffs are entitled to a declaration that Wallace's actions violated the free speech guarantees of the United States Constitution.
51. Plaintiffs are further entitled to an injunction prevent Wallace from banning Plaintiffs in violation of the free speech guarantees of the United States Constitution.
52. Pursuant to 42 U.S.C. §1988, Plaintiffs are entitled to their attorney's fees incurred in bringing this action.

COUNT II
(42 U.S.C. §1983 -- VIOLATION OF DUE PROCESS PROVISIONS OF UNITED STATES CONSTITUTION)

53. Plaintiffs repeat and incorporate all of the allegations of this Complaint, as if fully set forth herein.
54. This count is brought against Wallace in his Official Capacity for injunctive relief.
55. This count is brought against Wallace in his individual capacity for damages where not otherwise barred.
56. Wallace has acted under color of law in violating the Plaintiff's rights under the First and Fourteenth Amendments to the United States Constitutions.
57. Wallace has acted intentionally and with callous disregard for the Plaintiff's clearly established constitutional rights.

58. Wallace's continued actions against the Plaintiffs are causing substantial, immediate, and continuing damage to the Plaintiffs.

a. Pursuant to 42 U.S.C. §1983, Plaintiffs are entitled to compensation for these damages.

b. While some of Wallace's actions may, arguably, be outside of the statute of limitations,

Wallace has caused present and continual damages to all Plaintiff by maintaining the ban.

59. Pursuant to 42 U.S.C. §1983, Plaintiffs are entitled to an Injunction from this Court prohibiting Wallace from banning Plaintiffs from the Facebook Page.

60. Pursuant to 42 U.S.C. §1988, Plaintiffs are entitled to their attorney's fees incurred in bringing this action.

PRAYER FOR RELIEF

Plaintiff respectfully requests the following relief:

- On Count I, Judgment Declaring that Wallace has violated the free speech guarantees of the First Amendment to the United States Constitution, as applicable to the states under the Fourteenth Amendment;
- On Count II Judgment in favor of Plaintiffs awarding damages in an amount to be determined at trial;
- An Injunction prohibiting Wallace from banning Plaintiffs from the Facebook Page in violation of their constitutional rights; and
- Court costs and other reasonable expenses incurred in maintaining this action, including reasonable attorney's fees as authorized by 42 U.S.C. §1988.

JURY DEMAND

Plaintiffs hereby demand a trial by jury of all issues so triable.

Respectfully submitted,

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